

REMARKS

Applicants thank Examiner Stace for his courtesy during the interview of September 28, 2009, in which the below-mentioned prior art references were discussed in relation to this application. The substance of the interview is made of record in this Amendment.

By this Amendment, Applicants have amended claims 1, 8, 12, 19, 23 and 30. These amendments are made without prejudice or disclaimer. No new matter has been introduced. Claims 1-33 are currently under examination.

In the Office Action of July 31, 2009,¹ claims 1-22 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 1-5, 7-16, 18-27, and 29-33 were rejected under 35 U.S.C. § 103(a) as being allegedly obvious over U.S. Patent No. 6,453,038 to McFarlane et al. ("*McFarlane*") in view of U.S. Patent No. 6,128,380 to Shaffer et al. ("*Shaffer*") and further in view of U.S. Patent No. 5,633,924 to Kaish et al. ("*Kaish*"). Claims 6, 17, and 28 were rejected under 35 U.S.C. § 103(a) as being allegedly obvious over *McFarlane* in view of *Shaffer*, further in view of *Kaish* and further in view of U.S. Patent No. 6,901,380 to Bremers ("*Bremers*").

1. Rejections Under 35 U.S.C. § 101

The Office Action rejects claims 1-22 under 35 U.S.C. § 101. Because claims 1, 8, 12 and 19 are amended in accordance with the Examiner's helpful suggestion, and claims 2-7, 9-11, 13-18 and 21-22 depend from claims 1, 8, 12 and 19, respectively,

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Applicant respectfully requests withdrawal of the rejection of claims 1-22 under 35

U.S.C. § 101.

2. Rejections Under 35 U.S.C. § 103(a)

Applicant respectfully traverses the rejections of (1) claims 1-5, 7-16, 18-27, and 29-33 as being unpatentable over *McFarlane* in view of *Shaffer* and *Kaish* and (2) claims 6, 17, and 28 as being unpatentable over *McFarlane* in view of *Shaffer*, *Kaish* and *Bremers*.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. See M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007). The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit and stated that "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." See M.P.E.P. § 2141. In comparing the claim to the prior art, three factual inquiries must be addressed: (1) the scope and content of the prior art must be ascertained; (2) the differences between the claimed invention and the prior art must be determined; and (3) the level of ordinary skill in the pertinent art at the time of the invention was made must be evaluated. See *id.*

Applicant has considered the Examiner's arguments with respect to obviousness and, in order to address the Examiner's concerns, Applicant has amended the independent claims so as to recite rule-based selective synchronization. Applicant nevertheless respectfully submits that a *prima facie* case of obviousness has not been established in this application because the Office Action has neither properly

determined the scope and content of the prior art nor properly ascertained the differences between the claimed invention as amended and the prior art. Accordingly, Applicant respectfully asserts that the Office Action has failed to clearly articulate a reason why the prior art would have rendered the claimed invention obvious to one of ordinary skill in the art.

a. Rejection of Claims 1-5, 7-16, 18-27 and 29-33 Under § 103(a)

Claim 1, as amended, recites, in part, “selectively synchronizing routing logic of a routing system... wherein the synchronizing is *rule-based* and independent of the updating” (emphasis added). Claims 8, 12, 19, 23 and 30 recite similar elements.

The Office Action alleges that cols. 5-6, lines 41-15 of *Shaffer* disclose “automatically updat[ing]” the skill profile and that “[t]his is selective synchronization since the synchronization occurs on a per agent basis.” See Office Action, pg. 4. This, however, does not teach or suggest “selectively synchronizing routing logic of a routing system... wherein the synchronizing is *rule-based* and independent of the updating,” as recited in amended claim 1 because *Shaffer*’s automatic updating does not use rules, which would, for example, provide an element of conditionality to *Shaffer*’s updating.

McFarlane fails to remedy this deficiency, as the Office Action acknowledges. See Office action pp. 8 (“*McFarlane*... does not expressly teach... selectively synchronizing routing logic of a routing system”). Indeed, *McFarlane* is silent regarding “selectively synchronizing routing logic of a routing system... wherein the synchronizing is *rule-based* and independent of the updating.”

Similarly, *Kaish* fails to teach or suggest "selectively synchronizing routing logic of a routing system... wherein the synchronizing is *rule-based* and independent of the updating," as recited in amended claim 1.

While Applicant respectfully disagrees with the Examiner's arguments concerning obviousness, Applicant has amended claim 1 to recite rule-based selective synchronization in order to further distinguish the invention from the art cited by the Examiner, which does not include this feature. In view of this amendment, Applicant respectfully asserts that the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the substantial differences between the prior art and the invention as a whole recited in claim 1, as amended. Accordingly, Applicant proffers that the Office Action does not clearly articulate a reason why amended claim 1 would have been obvious to one of ordinary skill in view of the prior art. Therefore, Applicant respectfully submits that a *prima facie* case of obviousness has not been established for amended independent claim 1 and requests that the Examiner withdraw the rejection of this claim.

Amended independent claims 8, 12, 19, 23 and 30, although of different scope, recite features similar to those of claim 1, and thus are allowable for at least the same reasons. Claims 2-5, 7, 9-11, 13-16, 18, 20-22, 24-27, 29 and 31-33 depend from claims 1 8, 12, 19, 23 or 30 and thus require all of the elements recited therein, and are allowable for the same reasons, as well as by reason of reciting additional features not taught or suggested by the cited references. Accordingly, for at least the reasons discussed above, Applicant respectfully requests withdrawal of the rejection of claims 1-5, 7-16, 18-27 and 29-33 under 35 U.S.C. § 103(a).

b. Rejection of Claims 6, 17 and 28 Under § 103(a)

Claims 6, 17 and 28 depend from claims 1, 12 and 23 respectively, and thus require all of the elements recited therein. As explained above, neither *McFarlane*, *Shaffer* nor *Kaish* discloses "selectively synchronizing routing logic of a routing system... wherein the synchronizing is *rule-based* and independent of the updating," as recited in amended claim 1 and similar recitations in amended claims 8, 12, 19, 23 and 30.

Bremers fails to remedy this deficiency and the Office Action does not assert otherwise, as it is merely relied upon as allegedly teaching automatic synchronization of databases at a predetermined time interval. See Office Action pp. 21. Indeed, *Bremers* is silent regarding "selectively synchronizing routing logic of a routing system... wherein the synchronizing is rule-based and independent of the updating." Accordingly, for at least the reasons discussed above, claims 6, 17 and 28 are allowable and Applicant respectfully requests withdrawal of the rejection of claims 6, 17, and 28 under 35 U.S.C. § 103(a).

In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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